

PART 71—ELIGIBILITY REQUIREMENTS FOR EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS

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AUTHORITY: 10 U.S.C. 921-932 (Supp. IV 1980).

SOURCE: 47 FR 52701, Nov. 23, 1982, unless otherwise noted.

§ 71.1 Purpose.

This part replaces DoD Instruction 1342.10 and DoD Instruction 1342.4, and implements 20 U.S.C. 921-932, to:

- (a) Update the policy and eligibility requirements for education of DoD dependent students in overseas areas.
- (b) Authorize the enrollment of other minor dependents in DoD dependents schools conditioned upon available space and payment of tuition.

§ 71.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 71.3 Definitions.

The terms used in this part are defined below.

- (a) *Approved non-DoD dependents schools.* Schools, including dormitory facilities, other than DoD dependents schools, that provide suitable educational programs, usually on a tuition basis. The term includes residence facilities operated by approved non-DoD dependents schools to provide room and board for eligible handicapped dependents when DoD dependents schools cannot provide an appropriate education.

- (b) *Commuting area.* A designated geographical area surrounding a DoD dependents school within which pupil transportation at U.S. Government expense is provided for DoD dependent students, except for those living within walking distance of the school (See DoD 4500.36-R).

- (c) *Correspondence courses.* Home or supplemental instruction courses for DoD dependent students who live in areas where there are no suitable facilities, for handicapped DoD dependent students who cannot attend school, and for the supplementation of course offerings at DoD dependents schools or approved non-DoD dependents schools.

- (d) *DoD dependents schools.* Schools established by the Department of Defense in overseas areas to provide primary and secondary education for minor dependents of DoD sponsors.

- (e) *DoD dependents schools with Dormitories.* Residence facilities operated at certain DoDDS schools, usually at the high school level and primarily but not exclusively to provide room and board for DoD dependent students who are authorized to accompany their DoD sponsors to locations where there are no appropriate educational facilities available locally.

- (f) *DoD dependent student.* A minor dependent who:

- (1) Is the child, stepchild, adopted child, ward, or spouse of a DoD sponsor, or who is a resident in the household of a DoD sponsor who stands in loco parentis to such individual and who receives one-half or more of his or her support from such sponsor; and

- (2) Has not completed secondary school and who will reach his or her 5th but not 21st birthday by December 31 of the current school year; or

- (3) Is handicapped, and is between 3 and 5 years of age by December 31 of the current school year, provided that the Director, DoDDS, or designee, in his or her sole discretion, determines that adequate staff and facilities are available to serve such a handicapped child.

- (g) *DoD sponsor.* A Military Service member serving on active duty and stationed overseas or a civilian employee of the Department of Defense who is employed on a full-time basis, paid from appropriated funds, and stationed

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overseas, and who is either a U.S. citizen or a person lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the United States immigration laws (8 U.S.C. “Aliens and Nationality”).

(h) *Full-time students.* Panama Canal College students enrolled in courses for 12 or more credit hours during the fall and spring semesters of one school year.

(i) *Overseas area.* Any area situated outside the United States (the States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island))

(j) *Part-time students.* Panama Canal College students enrolled in courses for 11 or fewer credit hours during the fall and spring semesters of one school year, and all students enrolled during the summer session.

(k) *Space-required.* Pupil accommodations that must be provided by the DoD dependents schools.

(l) *Space-available.* Pupil accommodations that may be made available in DoD dependents schools if the Director, DoDDS, or designee, determines that a school operated by DoDDS has adequate staff and other resources to permit the enrollment of nonspace-required students.

§71.4 Policy.

(a) It is the policy of the Department of Defense:

(1) That, while overseas, DoD dependent students may be enrolled in DoD dependents schools or approved non-DoD dependents schools, or may take correspondence courses at U.S. Government expense, under the conditions prescribed in §71.5.

(2) To allow the enrollment of other minor dependents in DoD dependents schools, provided that space is available and that tuition is paid.

(b) Section 57 of this title provides guidance concerning the education of handicapped children.

§71.5 Eligibility requirements.

Students may be enrolled in the DoD dependents schools pursuant to paragraphs (a) through (d) of this section,

and in that priority, and pursuant to paragraph (e) of this section.

(a) *Space-required, tuition-free.* (1) Command-sponsored DoD dependent students shall, upon the request of their DoD sponsor, be enrolled in DoD dependents schools on a space-required, tuition-free basis. However, costs for the education of minor dependents of DoD sponsors working for the DoD Security Assistance Program shall be paid from DoD Security Assistance Program funds.

(2) If, as determined by the Director, DoD Dependents Schools (DoDDS), or designee, no DoD dependents school is available within the commuting area, command-sponsored DoD dependent students are eligible for education in approved non-DoD dependents schools at U.S. Government expense, usually in that same foreign country, or in DoD dependents schools with dormitories, or through correspondence courses at U.S. Government expense.

(3) DoD dependent students may be provided education in approved non-DoD dependents schools or may receive correspondence courses at U.S. Government expense only at locations where DoD dependents schools are not available or are operating at maximum capacity. Only those non-DoD dependents schools with programs considered satisfactory by the Director, DoDDS, or designee, shall be approved to provide education at U.S. Government expense to DoD dependent students. In all cases, the payment of tuition in approved non-DoD dependents schools by the U.S. Government is limited to those DoD dependent students who are authorized transportation at U.S. Government expense to or from an overseas area, if their DoD sponsor is military, and to those DoD dependent students whose DoD sponsor, if civilian, is eligible for a living quarters allowance, as authorized by the Department of State Standardized Regulations and DoD 1400.25-M.

(4) If adequate housing is available within the commuting area of a DoD dependents school and an appropriate educational program is available at that school, tuition will not be authorized for the attendance of DoD dependent students in an approved non-DoD

dependents school in that same locality, except as authorized in paragraph (a)(3) of this section. DoD dependent students who currently are enrolled in an approved non-DoD dependents school and who would be adversely affected by this limitation may, at the discretion of the Director, DoDDS, or designee, be authorized to continue in attendance in that approved non-DoD dependents school through the 1984-85 school year, or until the rotation of the DoD sponsor out of the command, whichever is earlier.

(5) Approved non-DoD dependents schools that are available free of charge and that offer instructional programs in English should be used, if feasible, before contracting for education in approved non-DoD dependents schools that charge tuition.

(6) If no DoD dependents school within the commuting area of a handicapped DoD dependent student is able to provide an appropriate education to that student, DoDDS may place the student in another DoD dependents school. If no appropriate DoD dependents school is reasonably available, DoDDS then may place the student at U.S. Government expense in an approved non-DoD dependents school overseas. DoDDS may place a handicapped DoD dependent student in an approved non-DoD dependents school in the United States only if no appropriate school is reasonably available overseas. DoDDS may not place a non-DoD dependent student in a non-DoD dependents school at U.S. Government expense.

(7) DoD dependent students who are the dependents of a DoD sponsor who is detained by a foreign power or is declared missing in action or otherwise unlawfully detained may remain in a DoD dependents school, or in an approved non-DoD dependents school, at U.S. Government expense for as long as the detention or missing status exists, subject to the approval of the Director, DoDDS, or designee.

(8) DoD dependent students who are authorized attendance in a DoD dependents school or an approved non-DoD dependents school may complete the current school year if the DoD sponsor is transferred, dies, or retires during the school year, but subse-

quently shall lose their eligibility to attend, except on a space-available, tuition-free basis in a DoD dependents school as prescribed in paragraph (c)(2) of this section.

(9) If DoD dependent students are authorized to accompany their DoD sponsor to the country of the sponsor's assignment, such dependent students ordinarily will not be entitled to space-required, tuition-free education in a DoD dependents school in a different overseas country or to education in a non-DoD dependents school at U.S. Government expense in that different country. Any exceptions to this policy must be approved by the Director, DoDDS, or designee.

(b) *Space-available, tuition-paying (federally connected).* Under section 1404(c) of the "Defense Dependents' Education Act of 1978", if the Director, DoDDS, or designee, determines that space is available, consistent with the local military commander's policy concerning access to the installation and agreements with the host nation, other minor dependents in the categories specified in this subsection may be enrolled in a DoD dependents school upon payment of tuition. The amount of tuition shall be determined by the Director, DoDDS, or designee, and may not be less than the rate necessary to cover the average cost of enrollment of children in the DoD dependents schools. Clarification on how tuition rates are determined is contained in DoD Directive 4000.19 and DoD Instruction 7230.7. Minor dependents in this category may be enrolled in the following priority:

(1) Minor dependents of other U.S. Government agency employees stationed overseas.

(2) Minor dependents of U.S. citizens who have executed contracts or who are employed by parent organizations that have executed contracts or other agreements with the Department of Defense when the applicable contract or agreement authorizes dependent education on a tuition basis in the DoD dependents schools. A copy of the document authorizing attendance shall be presented to the appropriate DoD dependents school official at the time of enrollment. Examples of individuals whose minor dependents are covered by this paragraph include:

(i) Nonappropriated fund instrumentalities (universal annual) employees.

(ii) Defense contractor personnel.

(iii) United Services Organizations, Inc., personnel.

(iv) American Red Cross personnel.

(3) Minor dependents of host-nation or third-country national military or civilian personnel accompanying or serving with the Military Services overseas, when recommended by the major overseas commander and when approved by the Director, DoDDS, or designee.

(4) Minor dependents of other sponsors who are serving the national defense interest, as determined by the Director, DoDDS, or designee.

(c) *Space-available, tuition-free.* Under section 1404(c) of the “Defense Dependents’ Education Act of 1978”, the following classes of DoD dependent students may be enrolled, in the priority given below, in DoD dependents schools on a space-available, tuition-free basis:

(1) Minor dependents of military DoD sponsors who are stationed in overseas areas to which their dependents are not authorized transportation at U.S. Government expense or minor dependents of civilian DoD sponsors who are not entitled to a living quarters allowance as authorized by the Department of State Standardized Regulations and DoD 1400.25-M, when the sponsors elect to transport these dependents at their own expense to overseas areas in which the sponsors are stationed (noncommand-sponsored dependents). If at any time during a DoD sponsor’s overseas assignment that sponsor’s minor noncommand-sponsored dependents become command-sponsored or the sponsor acquires minor, command-sponsored dependents, those dependents shall be authorized “space-required, tuition-free” status.

(2) DoD dependent students who are dependents of DoD sponsors who die while intitled to compensation or active duty pay at the time of the sponsor’s death, provided that the surviving spouse either was residing in an overseas area when the sponsor died or has been a citizen of a foreign country and returns to that country. The DoD dependent student must be enrolled in a DoD dependents school either within 1 year of the DoD sponsor’s death or, if

the dependent is below school age when the sponsor dies, within 1 year of the dependent’s becoming eligible to enroll.

(3) Noncommand-sponsored DoD dependents who are enrolled in a DoD dependents school may remain in a DoD dependents school if their sponsor is declared missing in action or otherwise unlawfully detained for as long as the detention or missing status exists, subject to the approval of the Director, DoDDS, or designee.

(d) *Space-available, tuition-paying (nonfederally connected).* Under section 1404(c) of the “Defense Dependents’ Education Act of 1978”, the following minor dependents may be enrolled in a DoD dependents school upon payment of tuition if the Director, DoDDS, or designee, determines that space is available:

(1) Dependents of U.S. citizens residing in overseas areas, including dependents of retired personnel, or of deceased personnel not covered in paragraph (c)(2) of this section.

(2) Dependents of foreign nationals, when there is no objection from the host nation and when such inclusion does not displace or prevent inclusion of U.S. citizen-sponsored minor dependents seeking admission on the same basis at the same time.

(e) *Education in the Republic of Panama.* Eligibility requirements for education in the Republic of Panama are prescribed in § 71.7.

§ 71.6 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall monitor compliance with this part.

(b) The *Heads of DoD Components* shall comply with this part.

(c) The *Director, DoD Dependents Schools*, or designee, shall:

(1) Authorize the attendance of DoD dependent students in DoD dependents schools or approved non-DoD dependents schools, or provide correspondence courses at U.S. Government expense, in accordance with this part.

(2) Authorize the enrollment of other minor dependents in DoD dependents schools, in accordance with this part, and establish priorities among those

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dependents within an eligibility category.

(3) Provide information and guidance to DoD sponsor regarding enrollment in DoD dependents schools, residence in DoD dependents school dormitories or approved non-DoD dependents schools dormitories, enrollment in approved non-DoD dependents schools, and receipt of correspondence courses.

(4) Establish, in coordination with the supporting installation or community commander, commuting areas around DoD dependents schools for the purpose of determining eligibility for transportation of DoD dependent students. (See DoD 4500.36-R.)

(5) Periodically review the educational programs in approved non-DoD dependents schools that are used to educate DoD dependent students to ensure that these programs are satisfactory.

(d) *Commanders of overseas installations, military communities, or activities* shall:

(1) Advise incoming and newly assigned personnel about the DoD dependent schools' commuting areas and the extent of pupil transportation service supporting the local DoD dependents schools.

(2) Assist incoming and newly assigned personnel in obtaining housing within the commuting area of the local DoD dependents school, if feasible.

(3) Advise incoming and newly assigned personnel that, if adequate housing is available within the commuting area of a DoD dependents school and if the DoD sponsor's place of employment is also reasonably accessible from that commuting area, tuition assistance will not be available to provide education in approved non-DoD dependents schools for minor dependents of DoD sponsors who elect to reside beyond the commuting area of a DoD dependents school. (see DoD 4500.36)

(4) Inform incoming and newly assigned personnel that they will not be reimbursed for unauthorized enrollments in non-DoD dependents schools.

§ 71.7 Eligibility requirements for education of minor dependents and other persons in the Republic of Panama.

(a) The "Panama Canal Act of 1979" authorizes the extension of primary, secondary, and postsecondary educational services to DoD dependent students and other categories of dependents. Basic eligibility policy is described in § 71.5 of this part. Exceptional eligibility requirements for education for dependents in the Republic of Panama are addressed below.

(b) Minor dependents may be enrolled in DoD dependents schools or approved non-DoD dependents schools in the Republic of Panama or may receive correspondence courses at U.S. Government expense under the conditions and in the priority indicated below.

(1) *Space required, tuition-free education and education in approved non-DoD dependents schools.* In addition to DoD dependent students entitled to receive space-required, tuition-free education from DoDDS under § 71.5 of this part, the following minor dependents in the Republic of Panama are authorized "space-required tuition-free" status:

(i) Minor dependents of host-nation or third-country citizens employed by the Department of Defense and paid from appropriated funds, provided that such dependents were enrolled on a tuition-free basis in schools operated by the former Canal Zone Government on September 30, 1979, as then authorized for residents of the former Canal Zone. This provision applies only for uninterrupted enrollments.

(ii) Minor dependents of host-nation or third-country citizen employees transferred to the Department of Defense on October 1, 1979, and paid from appropriated funds may attend approved non-DoD dependents schools in the Republic of Panama at U.S. Government expense when such dependents were enrolled in a non-DoD dependents school under the authority and at the expense of the former Canal Zone Government/Panama Canal Company on September 30, 1979. This provision applies only for uninterrupted enrollments.

(2) *Space-required, tuition-paying education.* Dependents not specifically authorized tuition-free education in paragraph (b)(1) of this section, or in §71.5 of this part, when such dependents were enrolled in schools operated by the former Canal Zone Government on September 30, 1979, regardless of affiliation or citizenship of sponsors. This provision applies only for uninterrupted enrollments.

(c) Persons may be enrolled in the Panama Canal College under the conditions and in the priority listed below:

(1) *Tuition-paying, DoD-sponsored education.* All students at the Panama Canal College attend on a tuition-paying basis. The Department of Defense may assume a portion of the tuition cost for full-time students who are minor dependents of:

(i) Military DoD sponsors who are on active duty and stationed in the Republic of Panama.

(ii) Civilian DoD sponsors stationed in the Republic of Panama who are paid from appropriated funds and who have been lawfully accorded the privilege of residing permanently in the United States as immigrants in accordance with the United States immigration laws (8 U.S.C. “Aliens and Nationality”).

(iii) Members of the Military Services who are detained by a foreign power or declared missing in action or otherwise unlawfully detained for as long as the detention or missing status continues to exist. Under these circumstances, authorization for the dependents to remain in the College with DoD tuition assistance must be obtained from DoDDS officials and the local military commander.

(iv) If a sponsor discussed in paragraph (c)(1) (i), (ii), or (iii) of this section, is transferred, retires, or dies during the college semester, the sponsor’s dependents may complete the current semester, but subsequently shall lose their eligibility to attend the Panama Canal College.

(2) *Tuition-paying—other.* At the discretion of the Director, DoDDS, or designee, and when consistent with the local military commander’s policy concerning access to the area of military coordination and agreements with the Republic of Panama, the following cat-

egories of persons may be enrolled at the Panama Canal College on a full- or part-time basis, in the priority given below provided the applicant meets academic admissions requirements.

(i) Active duty members of the Military Services who are stationed in Panama and family members living with them (unless authorized DoD-sponsored education under paragraph (c)(1) of this section).

(ii) U.S.-citizens employees of the Department of Defense and other U.S. Government agencies, including the Panama Canal Commission, and family members living with them (unless authorized DoD-sponsored education under paragraph (c)(1) of this section).

(iii) Host-nation or third-country citizen employees of the Panama Canal Commission or other U.S. Government agency, district dentists, religious workers, and family members living with them, when such persons were enrolled in a Canal Zone school on a tuition-free basis or under the sponsorship of the former Canal Zone Government/Panama Canal Company on September 30, 1979, as was then authorized for residents of the former Canal Zone.

(iv) Minor dependents of Canal Zone Government/Panama Canal Company host-nation or third-country citizen employees separated through reduction in force action and not reemployed by another U.S. Government agency, when such dependents were enrolled in the former Canal Zone school system on September 30, 1979.

(v) U.S. citizens not specifically addressed above who reside in the Republic of Panama.

(vi) Host-nation and third-country citizens not specifically addressed above who reside in the Republic of Panama when there is no objection from the government of Panama and when such inclusion does not displace or prevent inclusion of U.S. citizens seeking admission on the same basis at the same time.

PART 73—TRAINING SIMULATORS AND DEVICES

Sec.

73.1 Purpose.

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